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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,672	07/17/2006	Richard W. McCoy	18801-540	9573

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McDonald Hopkins Co
600 Superior Avenue East
Suite 2100
Cleveland, OH 44114

EXAMINER

VANTERPOOL, LESTER L

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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05/05/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/533,672

Applicant(s)

MCCOY ET AL.

Examiner

LESTER L. VANTERPOOL

Art Unit

3782

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 2, 4-6, 8, 9, 12-14, 16, 19, 21, 22, 24, 26-28, 31 and 32.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Justin M Larson/
Primary Examiner, Art Unit 3782
5/4/11

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 4/18/11 have been fully considered and are not found persuasive.

Applicant argues, Hayama does not disclose, teach or suggest the element "platform comprising a floor, a platform side wall extending vertically from the periphery of the floor".

Examiner disagrees, claim 1 does not set forth any orientation of the cargo container and or how the cargo container is attached to the vehicle. If a plane extends perpendicular from a plane (16B), then the perpendicular plane extends (upward or vertical) or downward from the horizontal plane. Hayama teaches the platform (See Figure 1) comprising the floor (16A), the interior platform side walls of (16C) extending vertically (See Figure 1) from the periphery of the floor (16C) (See Figures 1 & 3). Therefore, Hayama satisfies the limitation set forth in claim 1 of a cargo container connectable to a vehicle.

Applicant argues, the platform sidewall (16c) of Hayama does not extend vertically from the floor (16B) {emphasis added}. Instead, the sidewall (16C) extends horizontally from (16B) {emphasis added}; and t the platform (16) in Hayama would not be capable of supporting the cargo carrier (12) thus rendering the apparatus in Hayama inoperable.

Examiner disagrees, claim 1 does not recite or set forth the orientation or how the cargo carrier is connectable to a vehicle. Therefore, Hayama teaches a cargo container connectable to a vehicle and Hayama clearly discloses the interior and exterior side wall (16C) extending vertically from the platform floor (16B). Figure 3 teaches the interior and exterior side walls (16C) of Hayama extending perpendicular from the floor (16B). If a plane extends perpendicular from a plane (16B), then the perpendicular plane extends (upward or vertical) or downward from the horizontal plane. Therefore, the interior and exterior side walls (16C) extends upward or vertical from the floor (16B) (See Figures 1 & 3).

In addition, Figures 1 & 3 teaches the cargo carrier (12) supported and locked into place by the periphery vertical side walls (16C) via (21A, 22A 24A and 21B).